

Monday, November 3, 2008

Division Five

**A120637 – The People, Emmanuel Cabanero.**

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>1</sup>  
(Not for Publication.)

**A120425 – The People, v. Frank Mejia.**

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Dondero, J.<sup>2</sup>  
(Not for Publication.)

Tuesday, November 4, 2008

Division Three

**A118909 – Glen Nagy et al., v. Willow Creek Community Services District.**

Judgment is affirmed in part and reversed in part. Judgment in favor of the District is affirmed, and the award of monetary sanctions against the Nagys is reversed. Each party shall bear its costs on appeal. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

**A119506 – The People, v. Ricky Paul Smith.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**A120544 – The People, v. Walter Lee Cole.**

The judgment of conviction on count 2 is reversed. In all other respects, the judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

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<sup>1</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>2</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, November 4, 2008(Continued)

**A118809 – Ray D. Holiday et al., v. Warren Pumps LLC.**

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

**A120615 – The People, v. Joseph Anthony Rael, Jr.**

The trial court is directed to modify the abstracts of judgment to change the payee of the \$33,500 restitution order from AAA to Alessandro Boggio, and to forward certified copies of the amended abstracts to the Department of Corrections and Rehabilitation. As modified, the judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A120393 – The People, v. Brusso Lenoir.**

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>3</sup> (Not for Publication.)

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<sup>3</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, November 5, 2008

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Swager, Justice, Margulies, Justice, Fred Abad, Deputy Clerk, and CHP Officer Tammy Smith, Bailiff.

- A118000 People,  
v.  
Jade Emily Anderson.  
Cause called and argued by Stephen Bedrick, counsel for appellant, and Karen Bovarnick, counsel for respondent. Cause ordered submitted.
- A120698 Christina Geraci,  
v.  
Scott Lawton.  
Cause called and argued by Harry Styron, counsel for appellant, and Eduardo Gonzalez, counsel for respondent. Cause ordered submitted.
- A111205 Christiana Conser,  
v.  
Board of Trustees of California State University, et al.  
Cause called and argued by Jeremy Friedman, counsel for appellant, and Amy Lo, counsel for respondents. Cause ordered submitted.
- A119346 Mercury Insurance Co.,  
v.  
David Douglas Pearson.  
Cause called and argued by Esther Sorkin, counsel for appellant via teleconferencing, and John Hager, counsel for respondent. Cause ordered submitted.

Panel change. J. Marchiano left the bench and J. Flinn, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, joined the bench. J. Swager presided over the next case on calendar.

Continued

A119034     Ron Patton,

v.

John Candelori.

Cause called and argued by Joseph Bochner, counsel for appellant, and Peter Brewer, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, November 5, 2008

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Swager, Justice, Margulies, Justice, Flinn, Justice Pro tem, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, Fred Abad, Deputy Clerk, and CHP Officer Kevin Bartlett, Bailiff.

A118644 Bernard P. Hagan,

v.

Mary Hagan.

Cause called and argued by John Nash, counsel for appellant, and Henry Shain, counsel for respondent. Cause ordered submitted.

Justice Marchiano announced Justice Flinn replaces Justice Swager on the panel. J. Swager left the bench.

A119462 People of the State of California,

v.

Fairmont Specialty Group.

Cause called and argued by Alan Nunez, counsel for appellant, and Leonor Noguez, counsel for respondent. Cause ordered submitted.

Court adjourned until Thursday, November 6, 2008 at 9:30 a.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, November 5, 2008

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Swager, Justice, Margulies, Justice, Flinn, Justice Pro tem, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, Fred Abad, Deputy Clerk, and CHP Officer Kevin Bartlett, Bailiff.

A118644 Bernard P. Hagan,

v.

Mary Hagan.

Cause called and argued by John Nash, counsel for appellant, and Henry Shain, counsel for respondent. Cause ordered submitted.

Justice Marchiano announced Justice Flinn replaces Justice Swager on the panel. J. Swager left the bench.

A119462 People of the State of California,

v.

Fairmont Specialty Group.

Cause called and argued by Alan Nunez, counsel for appellant, and Leonor Noguez, counsel for respondent. Cause ordered submitted.

Court adjourned until Thursday, November 6, 2008 at 9:30 a.m.

Thursday, November 6, 2008

Division One

**A119767 – The People, v. Orlando T. Wiggins.**

We vacate the unauthorized sentence on count 2 and correct it to reflect imposition of the full two-year middle term to run concurrently with count 1, and order the trial court to amend the court minutes and abstract of judgment accordingly; the clerk is to then forward a copy of the amended abstract of judgment to the California Department of Corrections. In all other respects the judgment is affirmed. Swager, Acting P.J., We Concur: Margulies, J., Flinn, J.<sup>4</sup> (Not for Publication.)

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<sup>4</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, November 6, 2008

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Swager, Justice, Margulies, Justice, Flinn, Justice Pro tem, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, Raquel Arellano, Deputy Clerk, and CHP Officer Harjit Singh, Bailiff.

- A120545 People,  
v.  
Jimmy Monroe Kokkeby.  
Cause called and argued by Matthew Siroka, counsel for appellant, and Jonathan Ma, counsel for respondent. Cause ordered submitted.
- Panel change. J. Flinn, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, left the bench and J. Margulies joined the bench.
- A121142 In re Kelvin Cannon on Habeas Corpus.  
A121143 In re Robert Luca on Habeas Corpus.  
Cannon et al.,  
v.  
The People.  
Cause called and argued by Amy Daniel, counsel for appellant, and John McCabe, counsel for respondent. Cause ordered submitted.
- A116899 People,  
v.  
Sylvester Antoine Bradford.  
Cause called and argued by Sharon Birenbaum, counsel for appellant, and Sharon Birenbaum, counsel for respondent. Cause ordered submitted.
- A116847 Anthony Marin et al.,  
A118116 v.  
Costco Wholesare Corp.  
Cause called and argued by David D. Kadue, counsel for appellant, and Todd Schneider, counsel for respondent. Cause ordered submitted.

Court recessed until 1 p.m.



CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, November 6, 2008

The Court reconvened at 1:00 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Swager, Justice, Margulies, Justice, Raquel Arellano, Deputy Clerk, and CHP Officer Tammy Smith, Bailiff.

A117870 City of Oakland,  
A120152 v.

Paul Jurich, et al.

Cause called and argued by Gerald Murphy, counsel for appellant, and Christopher Kee, counsel for respondent. Cause ordered submitted.

Court adjourned.

Friday, November 07, 2008

Division One

**A120905 – In re S.G., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. F.G., et al.**

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A120879 – Estate of Yvonne Paul, Deceased. Henry Stevens, v. Yolanda Paul.**

The judgment is affirmed. Yolanda is awarded her costs on this appeal. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A121564 – In re the Marriage of Gina Bloom and Barry Bloom. Gina Bloom, v. Barry Bloom.**

The appeal is dismissed. Kline, P.J., We Concur: Haerle, J., Richman, J. Not for Publication.)

Division Three

**A116707, A117353 – Elizabeth Ann Conte, v. Wyeth, Inc., et al.**

The judgment in favor of Wyeth is reversed. The judgments in favor of Purepac, Pliva, and Teva are affirmed. The parties are to bear their own costs on appeal. Siggins, J., We Concur: McGuiness, P.J., Pollak, J. (Certified for Publication.)

**A119697 – Jatinder Kullar et al., v. Foot Locker Retail, Inc., Crystal Echeverria et al.**

By The Court: The opinion in the above-entitled matter filed on October 14, 2008, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. McGuiness, P.J. (Certified for Publication.)

**A119340 – Lyon Financial Services Inc., v. Elaine Wallace.**

By The Court: The petition for rehearing is denied. McGuiness, P.J.

Friday, November 07, 2008(Continued)

Division Four

**A118777 – The People, v. Stephen Richard Ryan.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Monday, November 10, 2008

Division Three

**A120749, A120757 – Uphold Our Heritage, v. Town of Woodside, Steve Jobs, R.P.I.**

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Five

**A117899 – Old Mother’s Cookies, LLC, et al., v. City of Oakland, Community and Economic Development Agency, Rent Adjustment Program, Housing, Residential Rent and Relocation Board, Alison Ulman, R.P.I.**

The judgment is affirmed. Respondents are entitled to their costs on appeal. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>5</sup> (Not for Publication.)

Wednesday, November 12, 2008

Division Four

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<sup>5</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, November 12, 2008(Continued)

**A117892 – Eric Hoopes, v. John P. Dolan et al.**

The judgment is affirmed. The parties shall bear their own costs and attorney fees incurred on appeal. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Certified for Publication.)

**A120320 – Diane Parker et al., v. Mad River Community Hospital et al.**

The purported appeal is dismissed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A119673 – The People, v. Gunter Mannich.**

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>6</sup> (Not for Publication.)

Thursday, November 13, 2008.

Division Three

**A116622 – The People, v. Jeffrey Dewayne Washington.**

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A121108 – Yee Keung Siu, v. Pius Lee, et al.**

The trial court's attorney fee order is affirmed. Siu shall bear costs on appeal. Jenkins, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A121107 – Lloyd W. Schloegel, v. John Schloegel et al.**

The order of dismissal is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

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<sup>6</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Thursday, November 13, 2008

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Dondero, J,\* and Joshua Chow, Deputy Clerk.

A120285    Boys and Girls Club of Petaluma et al.,  
              v.  
              James J. Walsh et al.,  
Cause called and argued by Richard Collier, counsel for appellants, and by Gregory G. Spaulding, counsel for respondents. Cause ordered submitted.

A119954    Michael Caminero,  
              v.  
              Jenny Chung,

A120861    Michael Caminero,  
              v.  
              Sanela Kapick et al.,  
Cause called and argued by Paul Richard Kleven, counsel for appellant, and by David Grahame Hysinger, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Needham left the bench and Justice Simons entered.

A118698    Eric W. Lien et al.,  
A120068    v.  
              Lucky United Properties Investments et al.,  
Cause called and argued by Sam Walker, counsel for appellant and respondent Eric W. Lien, and by Mattaniah Eytan, counsel for appellant and respondent Lucky United Properties Investments. Cause ordered submitted.

A120083    The People,  
              v.  
              Guillermo Mendoza,  
Cause called and argued by Arturo Hernandez-Melendez, counsel for appellant, and by Allan Yannow, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Dondero left the bench and Justice Needham entered.

A116694    The People  
              v.  
              Michelle Ann Walker,  
Cause called and argued by Jonathan david Soglin, counsel for appellant, and by Margo J. Yu, counsel for respondent. Cause ordered submitted.

A120225    Jill Karen Schaffer,  
              v.  
              City and County of San Francisco et al.,  
Cause called and argued by John Houston Scott, counsel for appellant, and by Warren Metlitzky, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Dondero entered.

A115717    The People,  
              v.  
              Scott Felix,  
Cause called and argued by Janice Ryan Mazur, counsel for appellant, and by Warren Metlitzky, counsel for respondent. Cause ordered submitted.

Court adjourned at 11:33 a.m.

\*Judge from San Francisco County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, November 14, 2008

Division One

**A122647 – M.T., v. Superior Court of Del Norte County, Del Norte County  
Department of Health and Human Services et al. R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. (Cal. Rules of Court, rule 8.264(b)(3).) Marchiano, P.J., We Concur: Margulies, J., Flinn, J.<sup>7</sup> (Not for Publication.)

**A121274 – In re E.E., a Person Coming Under the Juvenile Court Law. Sonoma  
County Human Services Department, v. D.D.**

The appeal is dismissed as to the order entered February 5, 2008. The order of March 14, 2008, is affirmed. Marchiano, P.J., We Concur: Margulies, J., Flinn, J.<sup>8</sup> (Not for Publication.)

**A118964 – The People, v. John Anthony Guadarrama, Jr.**

Accordingly, the judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A119046 – Alexis Giraldo, v. California Department of Corrections and  
Rehabilitation, et al.**

The trial court's order sustaining defendants' demurrer to plaintiff's claim for negligence on the ground that she failed to allege a cognizable duty is reversed. The order dismissing the claim for violation for the cruel or unusual punishment clause and the prayers for injunctive and declaratory relief is affirmed. The matter is remanded to the trial court for further proceedings and consistent with the above. Richman, J., We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

**A121828 – In re C.R., a Person Coming Under the Juvenile Court Law. The People,  
v. C.R.**

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<sup>7</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>8</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, November 14, 2008(Continued)

Having reviewed the record and found no arguable issues, we affirm the judgment.  
Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A121185 – In re B.F., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services, v. S.F.**

The juvenile court's section 366.26 orders are reversed and the case is remanded for further proceedings as directed. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Five

**A118107 – Douglas Wong et al., v. Lafayette Jamerson.**

We affirm the judgment. Appellant shall pay the Respondents' costs. Dondero, J.<sup>9</sup> We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A120557 – In re J.F., a Person Coming Under the Juvenile Court Law. The People, v. J.F.**

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Dondero, J.<sup>10</sup> (Not for Publication.)

Monday, November 17, 2008

Division One

**A119462 – The People, v. Fairmont Specialty Group.**

The summary judgment upon the forfeiture is reversed. The matter is remanded so that the trial court can schedule a further hearing upon the status of the tolling and to determine if subsequent events have resulted in exoneration of the bond or, under new facts, a judgment upon is appropriate. Flinn, J.,<sup>11</sup> We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

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<sup>9</sup> Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>10</sup> Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.



Monday, November 17, 2008(Continued)

Division Two

**A120206 – Charles Fonseca, v. Heather J. Fong as Chief, etc., et al., San Francisco Police Department, R.P.I.**

By The Court: It is ordered that the published opinion filed herein on October 22, 2008, be modified as follows: (Please see order.) There is no change in the judgment. Respondents' petition for rehearing is denied. Kline, P.J. (Certified for Publication.)

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<sup>11</sup> Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Monday, November 17, 2008

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Siggins, J., and Jenkins, J.; and F. Castuera, Deputy Clerk.

A119125 MYRTLE SCHULER,  
A119472 v.  
LOYOLA SCHULER,

WMC MORTGAGE CORPORATION.

Cause called and argued by Jeffrey Lowenthal, counsel for appellant, WMC Mortgage Corporation, Fred Hjelmset, counsel for respondent, Loyola Schuler, and Douglas Robbins, counsel for respondent, Myrtle Schuler. Cause ordered submitted.

A119260 THELMA RUSS et al.,  
v.  
FREMONT UNIFIED SCHOOL DISTRICT.

Cause called and argued by Charles William, counsel for appellant, and James Marzan, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Jenkins, J. left the courtroom and Pollak, J. joined the bench.

A116053 THE PEOPLE,  
v.  
REX LEE BELL.

Cause called and argued by Ozro Childs, counsel for appellant, and John Vance, counsel for respondents. Cause argued and submitted.

At this point in the proceedings, Jenkins, J. re-joined the bench. Siggins, J. stayed in the courtroom; however, he did not participate in the oral argument.

A120144 ANTONIO GIUSTO,  
v.  
CITY OF SAN MATEO PERSONNEL BOARD,

CITY OF SAN MATEO.

Cause called and argued by Nancy Haneke, counsel for appellant, and Alison Wilkinson, counsel for respondent. Cause ordered submitted.

CONTINUED

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Monday, November 17, 2008

At this point in the proceedings, McGuiness, J. left the courtroom and Siggins, joined the proceedings. Pollak, J. presided over the last two cases.

A119497 THE PEOPLE,

v.

COUNG TRAN.

Cause called and argued by John Jordan, counsel for appellant, and Eric Share, counsel for respondent. Cause ordered submitted.

A116205 PROTECT OUR WATER et al.,

A119689 v.

IMPERIAL IRRIGATION DISTRICT, et al.,

SAN DIEGO COUNTY WATER AUTHORITY et al.

Cause called and argued by Rose Zoia, counsel for appellant, and David Osias, counsel for respondent, Imperial Irrigation District. Cause ordered submitted.

COURT ADJOURNED.

Monday, November 17, 2008(Continued)

Division Five

**A118126 – The People, v. Robert Charles Canfield.**

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Dondero, J.<sup>12</sup>  
(Not for Publication.)

**A114948, A116022 – Donald W. Dye, et al., v. Caterpillar, Inc., et al.**

The judgments are reversed, and the case is remanded for further proceedings. Appellants shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1), (2).) Jones, P.J., We Concur: Simons, J., Reardon, J.<sup>13</sup> (Not for Publication.)

Tuesday, November 18, 2008

Division One

**A121920 – The People, v. Peter Lynn Loudermilk.**

After a full review of the record, we find no arguable issues and, accordingly, affirm the judgment. Swager, Acting P.J., We Concur: Marchiano, P.J., Flinn, J.<sup>14</sup> (Not for Publication.)

**A120545 – The People, v. Jimmy Kokkeby.**

The judgment is affirmed. Marchiano, P.J., We Concur: Swager, J., Flinn, J.<sup>15</sup> (Not for Publication.)

Division Three

**A122584 – Rachel B., v. The Superior Court of Humboldt County, Humboldt County Department of Health & Human Services, R.P.I.**

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<sup>12</sup> Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>13</sup> Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>14</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>15</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, November 18, 2008(Continued)

The petition for extraordinary writ and request for stay are denied. Jenkins, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A120071 – Conchita Dieden, v. Stanley F. Schmidt.**

The trial court's judgment of quiet title in favor of Dieden is reversed and the case is remanded for further proceedings consistent with this opinion. Dieden shall bear costs on appeal. Jenkins, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A120768 – The People, v. Norman Yung Yuen Hsu.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Certified for Publication.)

**A121330 – The People, v. William Duc Vo.**

Judgment affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A122911 – Valerie Ann Cooper, v. The Superior Court of San Mateo County, Christopher Scott Cooper, R.P.I.**

Let a peremptory writ of mandate issue directing the trial court to vacate its October 8, 2008 order dismissing the underlying action and voiding the temporary orders. The court shall conduct a new hearing on the propriety of the temporary orders and the relevant UCCJEA jurisdictional issues as soon as possible. Wife shall recover her costs for this proceeding. (Cal. Rules of Court, rule 8.49(m)(1)(A).) This decision shall be final as to this court immediately upon filing. (See rule 8.264(b)(3).) The stay previously imposed by this court shall remain in effect until the trial court complies with the peremptory writ, at which time the stay will dissolve. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, November 18, 2008

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Rivera, J.; Annie Reasoner, Deputy Clerk; CHP Officer Marty Fredericks, Bailiff.

- A119942      Fred Any Ivey, et al  
                 v.  
                 370 Embarcadero W, et al  
Cause called. Paul Utrecht argued for appellant 370 Embarcadero W. David Bryden argued (by telephone appearance) for respondent Ivey. Cause submitted.
- A120253      Yasmeen Tanzel  
                 v.  
                 City of Richmond  
Cause called. Mark Clausen argued for appellant Tanzel. Joseph Quinn argued for respondent City of Richmond. Cause submitted.

Court was adjourned at 10:19 a.m.

Tuesday, November 18, 2008(Continued)

Division Five

**A120090 – The People, v. John M. Fotinos.**

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Dondero, J.<sup>16</sup> (Not for Publication.)

Wednesday, November 19, 2008

Division One

**A114650 – Gail Leong et al., v. The Regents of The University of California.**

The orders are affirmed. Each side will bear their own costs on appeal. Swager, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A119317 – The People, v. Benjamin Covarrubias Ruezga.**

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A121079 – In re A.A. et al., Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency, v. P.A.**

The order terminating P.A.'s parental rights and ordering A.A. and N.B. placed for adoption was supported by substantial evidence and is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A115800 – The People, v. Paul James Smiraglia.**

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A113740 – Ryan May-Carmen, a minor, etc., et al., v. Dynacraft Industries, Inc. et al.**

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<sup>16</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.



Wednesday, November 19, 2008(Continued)

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

**A121437 – The People, v. Aaron Clark Gaffney.**

The judgment is affirmed. Siggins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A114809 – O.W.L. Foundation et al., v. City of Rohnert Park et al., University District LLC et al., R.P.I**

The judgment is reversed. Appellants shall recover their costs on appeal. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Certified for Publication.)

Division Four

**A114627 – Peter Greenwood, v. Craig Stephen Murphy et al.**

The portions of the judgment awarding \$118,500 in repair cost damages for the Larkspur Property and denying any recovery on Greenwood's complaint are reversed, and the matter is remanded to the trial court with directions to redetermine these two issues on the basis of the evidence previously presented, or after receiving such additional evidence as the trial court may deem necessary or advisable. In all other respects the judgment is affirmed. The parties shall bear their own costs on appeal. Reardon, J., We Concur: Ruvalo, P.J., Rivera, J. (Not for Publication.)

Thursday, November 20, 2008

Division One

**A111205 – Christina Conser, v. The Board of Trustees of The California State University et al.**

The judgment and order appealed from are affirmed.<sup>17</sup> Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

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<sup>17</sup> This opinion does not affect case No. A112178, which has a bankruptcy stay.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Thursday, November 20, 2008

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Officer Singh and S. Wheeler, Deputy Clerk.

- A120470      Wai Ling Li,  
                  v.  
                  Marie Claire Tzortzatos.  
Cause called and argued by Lina Foltz, counsel for appellant, and Daniel A. Conrad, counsel for respondent. Cause ordered submitted.
- At this point of the proceedings, Justice Lambden left the bench and Justice Richman joined the bench for the remainder of the calendar.
- A118176      The People,  
                  v.  
                  Hilary Cecil Young.  
Cause called and argued by Theresa Gibbons, counsel for appellant, and Dorian Jung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A120030      The People,  
                  v.  
                  Juan Carlos Barajas.  
Cause called and argued by Laretta Marie Oravitz-Komlos, counsel for appellant, and Christopher W. Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A115939      The People,  
                  v.  
                  Derrell Lamont Morgan.  
Cause called and argued by Sharon Loughner, counsel for appellant, and Randi Dana Covin, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A119957      Intra-American Foundation & Drilling,  
                  v.  
                  R.M. Harris et al.  
Cause called and argued by Vicki Marolt Buchanan, counsel for appellant, James

David Curran, counsel for respondents R.M. Harris, United States Fidelity and Guaranty, and St. Paul Fire and Marine Insurance, and Daniel Alan Near, counsel for respondent State of California, Department of Transportation. Cause ordered submitted.

**Court recessed until 1:30 p.m.**

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Thursday, November 20, 2008

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Haerle, Acting P.J., Lambden, J., Richman, J., Officer Bartlett and S. Wheeler, Deputy Clerk.

A120896      The People,  
                 v.  
                 Trown Green.  
Cause called and argued by William Sullivan Mount, Deputy District Attorney, counsel for appellant, and Jeremy T. Price, counsel for respondent. Cause ordered submitted.

A118186      The People,  
                 v.  
                 Lee David Harbert.  
Cause called and argued by Michael Romano, counsel for appellant, and Christopher W. Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A119437      Alanna Spencer,  
                 v.  
                 Ryan Marshall.  
Cause called and argued by Joel F. Donahoe, counsel for appellant, and James Lee Hand, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Haerle left the bench and Presiding Justice Kline joined the bench for the remainder of the calendar.

A119337 &      Beckstoffer Vineyards II et al.,  
A120210      v.  
                 Wiliam Deem, et al..  
Cause called and argued by Charles A. Koss, counsel for appellants, and Matthew Gluck and James Patrick Martin, counsel for respondents. Cause ordered submitted.

A120220      Legal Services For Prisoners With Children, et al.,  
                 v.  
                 Debra Bowen, as Secretary of State, etc., et al.  
Cause called and argued by Brad Seligman, counsel for amicus curiae The Impact

Fund for petitioners, on behalf of Jack Cosgrove, counsel for petitioners, and Jason Edward Rios, Deputy Attorney General, and Roger S. Matzkind, County Counsel, counsel for respondents. Cause ordered submitted.

**Court Adjourned.**

Thursday, November 20, 2008(Continued)

Division Three

**A118005 – The People, v. William Robert Hopper.**

The judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A119497 – The People, v. Cuong Ving Tran.**

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A120986 – The People, v. James Patrick Conway.**

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A120170 – Sustainability of Parks Recycling and Wildlife Legal Defense Fund, v. County of Solano Department of Resource Management.**

By The Court: The petition for rehearing is denied. Pollak, J., Acting P.J.

Division Four

**A121419 – The People, v. Devion Desean Johnson.**

The judgment is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A118124 – State Bar of California, v. William J. Statile.**

The judgment is reversed. On remand, the trial court is directed to enter judgment in favor of the State Bar on all its claims. Appellant shall recover its costs on appeal. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Certified for Publication.)

Friday, November 21, 2008

Division One

Friday, November 21, 2008(Continued)

**A120698 – In re the Marriage of Christina and Scott Lawton. Christina Geraci, v. Scott Lawton.**

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A120209 – Nikko Blunt, v. Rehabilitare, Inc.**

The judgment is affirmed. Blunt is to pay the costs of appeal. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

**A121594 – Catherine Louise Briggs et al., v. Resolution Remedies et al.**

The judgment is affirmed. Appellants and GEICO shall bear their own costs on appeal. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

**A120115 – Michael Morales et al., v. California Department of Corrections and Rehabilitation et al.**

The judgment is affirmed. Simons, Acting P.J., We Concur: Needham, J., Reardon, J.<sup>18</sup> (Certified for Publication.)

Monday, November 24, 2008

Division Two

**A119437 – Alanna Spencer, v. Ryan Marshall.**

The judgment is affirmed. Marshall is to pay costs of appeal. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Certified for Publication.)

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<sup>18</sup> Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, November 24, 2008(Continued)

Division Three

**A119125 – Loyola E. Schuler, v. Myrtle Z.Schuler.**

**A119472 – WMC Mortgage Corporation, v. Myrtle Z. Schuler et al.**

The judgment is affirmed. Respondent Myrtle Schuler shall recover her costs on appeal. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A122555 – Marin Emergency Physicians Medical Group, Inc., v. Big Valley Commercial, Inc.**

The appeal is dismissed. Respondent Marin Emergency Physicians Medical Group, Inc. shall recover its costs on appeal. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A116205, A119689 – Protect Our Water and Environmental Rights et al., v. Imperial Irrigation District, San Diego County Water Authority et al., R.P.I.**

The judgments in both actions are affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

**A120663 – In re A.R., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau, v. Laral L.**

The juvenile court's dispositional order is reversed and the matter is remanded for further proceedings consistent with this opinion. Jenkins, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

**A121714 – The People, v. Ricardo Tapia Muniz.**

We affirm. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

**A119309 – The People, v. Ray Porter.**

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)



Monday, November 24, 2008(Continued)

**A113873 – The People, v. Gabriel Tafolla et al.**

The judgments are affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

Tuesday, November 25, 2008

Division One

**A121142 – In re Kelvin Cannon, on Habeas Corpus.**

**A121143 – In re Robert Luca, on Habeas Corpus.**

The portion of the trial court's judgment awarding relief to petitioners is reversed and the matter is remanded to the trial courts for entry of judgment for the warden. Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Certified for Publication.)

**A110926 – The People, v. Sikai Fano Telea.**

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A120518 – The People, v. Gregory Chatten Stockman.**

The order denying defendant's application for a hearing on restoration of sanity is affirmed. Marchiano, P.J., We Concur: Margulies, J., Flinn, J.<sup>19</sup> (Not for Publication.)

**A118644 – In re the Marriage of Bernard and Mary Hagan. Bernard P. Hagan, v. Mary B. Hagan.**

Accordingly, the order that denied appellant's motions for reconsideration and for a new trial is affirmed. The order that granted respondent attorney fees is also affirmed. We do not find the present appeal frivolous, and therefore we deny respondent's request for sanctions. (Code Civ. Proc., § 907; Cal. Rules of Court, rule 8.276(a).) The parties are to bear their own costs on appeal. Swager, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A117825 – The People, v. Jason Michael Beck.**

The judgment is reversed and the case is remanded to the trial court. Marchiano, P.J., We Concur: Swager, J., Margulies, J. (Not for Publication.)

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<sup>19</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, November 25, 2008(Continued)

**A117870 & A120152 – City of Oakland, a municipal corporation, v. Paul R. Jurich et al.**

The May 1, 2007 modification order and the subsequent judgment are affirmed. The stay of the modification order, imposed June 13, 2007, will be dissolved upon the finality of this decision as to this court.<sup>20</sup> Marchiano, P.J., We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A119008 – Daniel Hasso, et al., v. County of Alameda et al.**

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A120798 – In re C.M., a Person Coming Under the Juvenile Court Law. The People, v. C.M.**

Accordingly, the judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A119337 - , A120210 – Beckstoffer Vineyards II et al., v. William Deem et al.**

The judgment is affirmed. The purchasers are to pay the costs of appeal. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

**A118956 – The People, v. Kerry Mary Marlowe.**

The order denying appellant's petition for conditional release for outpatient treatment is affirmed. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A122692 – The People, v. The Superior Court of Contra Costa County, Robert Lee Smith, R.P.I.**

The accelerated *Palma* procedure is appropriate “when petitioner’s entitlement to relief is so obvious that no purpose could reasonably be served by plenary consideration of the issue.” (*Ng v. Superior Court* (1992) 4 Cal.4th 1232, 1236-1237, and 1240-1241.) Here the briefing has adequately addressed the sole legal issue presented, whether section 1054.9 entitles a defendant

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<sup>20</sup> In light of our disposition in this matter, City’s motion to dismiss, filed January 31, 2008, and motion to lift stay, filed July 18, 2008, are denied as moot. City’s motion for sanctions, filed August 21, 2008, is denied.

Tuesday, November 25, 2008(Continued)

to compel new testimony from law enforcement. It does not. Consequently, let a peremptory writ of mandate issue commanding respondent superior court to vacate its September 5, 2008 order granting an evidentiary hearing pursuant to Penal Code section 1054.9 and to issue a new order denying Smith's request for that hearing. The stay previously issued by this court on September 18, 2008 is dissolved. Jenkins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A120451 – In re Athena H., et al., Persons Coming Under the Juvenile Court Law. Lake County Department of Social Services, v. Cynthia H., et al.**

The order reinstating the termination of parental rights is affirmed. Siggins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A118584, A119884 – Jones Ranch Homeowners Association, v. Kevin F. Degnan.**

We affirm the declaratory judgment and the order awarding attorney fees and costs. Each party to bear their own costs on appeal. Ruvolo, P.J., I Concur: Rivera, J. (Not for Publication.)

Because I would reversed the declaratory judgment (case No. A118584), I would also reverse the order awarding costs and fees to the HOA and remand for a determination of reasonable attorney fees to Dr. Degnan under Civil Code section 1354 (case No. A119884). Reardon, J. (Not for Publication.)

**A120494 – San Mateo County Department of Child Support Services, v. Dennis Henry Clark II.**

We reverse the order setting aside the default paternity judgment, as well as any order pursuant to section 7648.4 that has been entered in this case, and remand the cause to enable implementation of proper procedures for obtaining the requisite genetic tests from Holguin and Dennis. Dennis should be joined as an indispensable party to action. Holguin can be joined as a party as well. Alternatively, the genetic tests from Holguin can be accomplished by resort to nonparty discovery provisions of Code of Civil Procedure section 2020.010 et seq. Or, the Department can proceed by the way of administrative order pursuant to section 7648.2. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Certified for Publication.)

Division Five

**A120192 – Evelyn Cheroff, v. Eugene Schneider.**

Tuesday, November 25, 2008(Continued)

The order granting summary judgment and the judgment are affirmed. Evelyn Cheroff shall pay Eugene Schneider's costs on appeal. Dondero, J.<sup>21</sup> We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Division Five

**A117071 – Andres Turner et al., v. Association of American Medical Colleges.**

By The Court: The opinion filed October 30, 2008 is modified as follows: (See Order.)

The petition for rehearing is denied, There is no change in the judgment. Jones, P.J., (Certified for Publication.)

Wednesday, November 26, 2008

Division One

**A119034 – Ron Patton, v. John Candelori et al.**

The judgment is affirmed. Margulies, J., We Concur: Swager, P.J., Flinn, J.<sup>22</sup> (Not for Publication.)

**A119332 – The People, v. Brian Stephen Abrao.**

The judgment is reversed and remanded with instructions to strike the finding made under section 12022.7, subdivision (a) and to redetermine defendant's presentence custody credits under section 2933.1 accordingly. In all other respects, the judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Flinn, J.<sup>23</sup> (Not for Publication.)

Division Two

**A119667 – The People, v. Kelvin Anderson.**

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<sup>21</sup> Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>22</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>23</sup> Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, November 26, 2008(Continued)

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A117909 – Jorge L. Montiel, v. City and County of San Francisco.**

The purported appeal from the summary adjudication orders is dismissed. The judgment is affirmed. The City shall recover its costs on appeal. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A119023 – Brad Sanders, v. City of Pleasant Hill, et al., Harman Management Corporation., R.P.I.**

The order is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A121877 – The People, v. Michael Ray Jiles.**

The judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

**A116053 – The People, v. Rex Lee Bell.**

The judgment is affirmed. Siggins, J., I Concur: McGuiness, P.J. (Not for Publication.)

The 15-year-to-life sentence that has instead been imposed pushes constitutional tolerance to its limit, with dubious benefits to the victims, society, or public respect for the fairness and humanity of our criminal justice system. Pollak, J. (Not for Publication.)

Division Four

**A117257 – The People, v. Thomas Lee Frazier.**

The sentences on counts 18 through 32 are ordered stayed pursuant to section 654. The trial court is directed to prepare amended abstracts of judgment reflecting the modified sentence. The amended abstracts of judgments shall also indicate that the sentences on counts 1, 2, 33, 34, 36, and 37 are to run consecutively with each other and concurrently with the sentences on counts 3 through 17. The trial court is directed to forward the modified abstracts of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, November 26, 2008(Continued)

**A117798, A117875 – Joseph Royse, v. Lexington Insurance Company et al.**

The judgments are affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A117659 – The People, v. Juan Jose Morales.**

The conviction of count X is reversed, and the matter is remanded for resentencing. After resentencing, the trial court is directed to prepare and amended abstract of judgment and to forward it to the California Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication.)

Division Five

**A114910 – The People, v. Edgardo Rodriguez.**

The judgment is affirmed. Reardon, J.<sup>24</sup> We Concur: Jones, P.J., Needham, J. (Certified for Publication.)

**A118698, A120068 – Eric W. Lien et al., v. Lucky United Properties Investments, Inc., et al.**

The judgment and order declining to award fees are affirmed. Jones, P.J., We Concur: Simons, J., Dondero, J.<sup>25</sup> (Not for Publication.)

**A120225 – Jill Karen Schaffer, v. City and County of San Francisco, et al.**

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

**A121063 – The People, v. D.S.**

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Dondero, J.<sup>26</sup> (Not for Publication.)

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<sup>24</sup> Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>25</sup> Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>26</sup> Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, November 26, 2008(Continued)

**A118939 – The People, v. Boot Hughston.**

The judgment is reversed and the matter is remanded to the superior court. That court is directed to vacate the guilty plea if appellant makes an appropriate motion within 30 days after the remittitur is issued. In that event, the superior court should reinstate the original charges contained in the information, if the prosecution so moves, and proceed to trial or another appropriate disposition. If no timely motion to vacate the guilt plea is filed by appellant, the superior court is directed to reinstate the original judgment. Simons, J., We Concur: Jones, P.J., Needham, J. (Certified for Partial Publication.)

**A120786 – In re C.C., a Person Coming Under the Juvenile Court Law. The People, v. C.C.**

The case is remanded so the trial court can exercise its discretion to declare appellant's receiving stolen property offense to be either a felony or a misdemeanor. In all other respects, the judgment is affirmed. Jones, P.J., We Concur: Simons, J., Dondero, J.<sup>27</sup> (Not for Publication.)

**A118033 – The People, v. Luis Losada Madrid.**

The judgment is reversed. Simons, J., We Concur: Jones, P.J., Needham, J. (Certified for Publication.)

**A121175 – In re D.H., a Person Coming Under the Juvenile Court Law. The People, v. D.H.**

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Dondero, J.<sup>28</sup> (Not for Publication.)

**A119510 – The People, v. Alfonso Gomez.**

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Dondero, J.<sup>29</sup> (Not for Publication.)

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<sup>27</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>28</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

<sup>29</sup> Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.